



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Arthur P. Meister - Extension of Temporary
Quarters
File: B-224884
Date: September 23, 1987

DIGESTS

To justify an extension of temporary quarters subsistence expenses, the employing agency's policy directive and the Federal Travel Regulations require a need for an extension due to circumstances occurring beyond the employee's control (short-term delay) within the first 60 days in temporary quarters. The employing agency's policy directive also requires scheduling of construction of a new home so that its occupancy can be expected within the first 60 days of temporary quarters. Since construction was not scheduled for completion under the employee's contract until after the first 60 days in temporary quarters, the employee is not entitled to an extension.

DECISION

Mr. William E. Burrows, Jr., Authorized Certifying Officer, Federal Bureau of Investigation (FBI), requests our opinion concerning the entitlement of an employee, Mr. Arthur P. Meister, to an extension of temporary quarters subsistence expenses (TQSE). We hold that the FBI properly denied the extension under its policy directive implementing the Federal Travel Regulations (FTR), para. 2-5.1 and 2a (Supp. 10, March 13, 1984), incorp. by ref., 41 C.F.R. § 101-7.003 (1985), which requires that the construction of a new home be scheduled for completion during the first 60 days an employee or his family occupies temporary quarters. Mr. Meister's purchase contract did not schedule completion of construction until after the first 60 days in temporary quarters had expired.

BACKGROUND

Mr. Meister was notified by letter dated March 12, 1985, that he would be transferred from Newark, New Jersey, to Quantico, Virginia, effective May 12, 1985. He entered the agency's relocation program on March 25, 1985, for the purpose of selling his New Jersey residence.

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On April 28, 1985, Mr. Meister while on an authorized househunting trip and 2 weeks before his transfer to Quantico, Virginia, entered into a contract for the purchase of a permanent residence to be constructed in the vicinity of Quantico. The scheduled completion date of construction as provided in the contract was on or before August 31, 1985. His family entered into temporary quarters on June 28, 1985, the FBI having authorized an initial period of up to 60 days TQSE. According to Mr. Meister, a concrete strike lasting several weeks caused construction delays, including a delay in pouring the foundation. He states that the strike was a well publicized event capturing the attention of the news media throughout its duration. It became evident that the home would not be completed by August 31 as scheduled under the contract and that TQSE would be required beyond the initial 60 days authorized. Consequently, near the end of that period Mr. Meister requested a 41-day extension of TQSE.

The FBI denied the request on the basis of a policy directive issued May 31, 1985. Employees were advised that every effort should be made to reduce or even eliminate the need to occupy temporary quarters if a househunting trip was taken. Additionally, the directive indicated that employees who used the Bureau's relocation program for selling their houses should not be required to occupy temporary quarters beyond the initial 60-day period. The policy directive further indicated that employees electing to build a new permanent residence and commencing occupancy of temporary quarters after June 15, 1985, would not be granted an extension of TQSE unless the employee could show that the construction completion date was scheduled to occur during the initial 60 days of the employee's temporary quarters occupancy.

The FBI's specific reason for denying Mr. Meister's extension was the failure to schedule completion of the construction within the first 60 days of temporary quarters, as required by the FBI directive. On the other hand, Mr. Meister argues that the strike was an unanticipated circumstance resulting in a delay occurring during the first 60 days of temporary quarters, so that he was entitled to an extension despite his failure to schedule completion of construction within that period.

OPINION

Paragraph 2-5.1 of the FTR provides as follows:

"2-5.1. Policy. Heads of agencies shall prescribe procedures for administering these provisions reasonably and equitably so that the necessity for allowing subsistence expenses and the amount of time an employee and members of his/her immediate family use temporary quarters is justified in connection with the employee's transfer to a new official station. As a general policy, the period for temporary quarters shall be reduced or avoided if a roundtrip to seek permanent residence quarters has been made or if, as a result of extended temporary duty at the new official station or other circumstances (for example, if the family does not move until some time after the employee's transfer), the employee has had adequate opportunity to complete arrangements for permanent quarters. The administrative determination as to whether the occupancy of temporary quarters is necessary and the length of time for occupancy shall be made on an individual-case basis."

An employee who is transferred shall be allowed subsistence expenses for himself or herself and for each member of the immediate family for a period of not more than 60 days. FTR para. 2-5.1.

Paragraph 2-5.2a of the FTR authorizes extension of this period only where there is a demonstrated need for an extension due to circumstances occurring within the initial 60-day period of temporary quarters and determined to be beyond the employee's control and acceptable to the agency. One of the examples of such a circumstance causing the need for an extension is presented in para. 2-5.2a:

"(b) new permanent residence cannot be occupied because of unanticipated problems (i.e., delays in settlement on new residence, short-term delay in construction of new residence, etc.)."

The FBI's scheduling requirement is consistent with these provisions and is a reasonable implementation of these provisions.

Before Mr. Meister's family entered temporary quarters on June 28, 1985, his purchase contract had scheduled

construction to be completed by August 31, 1985, after the first 60 days of authorized TQSE had expired. Thus, although the concrete strike may have delayed completion of the construction of the home, the fact remains that he and his family entered occupancy of temporary quarters at a time when he could anticipate that an extension would be needed.

Accordingly, we decide that Mr. Meister is not entitled to an extension of the initial period of temporary quarters.

for *Nancy R. Van Cleave*
Comptroller General
of the United States